

## **CITIZENS GUIDE TO SITING COUNCIL PROCEDURES**

### **PETITION FOR A DECLARATORY RULING**

#### **1. The Connecticut Siting Council**

The Connecticut Siting Council (Council) consists of nine members from all over the state. Five members are appointed by the Governor and four members are designees of the Senate, the House, the Commissioner of Energy and Environmental Protection and the Chairman of the Public Utilities Regulatory Authority. At least two members are experienced in ecology and not more than one member has an affiliation, past or present, with any utility or government utility regulatory agency. The Council reviews the need for and placement of cell towers, power plants, power lines and other energy and telecommunications infrastructure, and any significant environmental impacts.

#### **2. Nature of Siting Council Proceedings**

The Council's proceedings are very different from a local planning and zoning hearing or a town meeting. The Council jurisdiction is limited to hearing applications presented to it; the Council has no planning function. Council proceedings are governed by state statute: specifically, the Uniform Administrative Procedures Act. This means that the hearing is conducted in a manner similar to a courtroom proceeding. Public hearings must be held in an orderly fashion to ensure the transcriptionist is able to record every word.

#### **3. Participants in Siting Council Proceedings on Petitions for Declaratory Rulings**

The participants in a Council proceeding on a petition for a declaratory ruling consist of the following:

- a. Petitioner:** The petitioner is the cell phone service provider proposing to build a cell tower at a particular site and is a party in the proceeding. The petitioner files evidence with the Council before the hearing and presents witnesses at the hearing for questioning by the Council and other participants in the proceeding. Questions from the Council and other participants in the hearing are limited to the subject matter that is filed before the hearing. The petitioner may ask questions of other parties and intervenors on evidence that was submitted by those parties and intervenors before the hearing.
- b. Parties and Intervenors:** Parties and intervenors are participants in the proceeding who requested party or intervenor status from the Council before the hearing and were granted such status. Both parties and intervenors file evidence with the Council before the hearing and present witnesses at the hearing for questioning by the Council and other parties and intervenors in the proceeding. Parties and intervenors may ask questions of the petitioner and other parties and intervenors on evidence that was submitted by the petitioner and other parties and intervenors before the hearing. Parties and intervenors are not allowed to make their own case by giving oral testimony at the hearing. They must make their case in writing and, in exchange, they may cross-examine the petitioner and other parties and intervenors and their witnesses.

- c. **Limited Appearance Statements:** Limited appearance statements are made by residents and other persons who would like to express their comments and concerns about the proposed cell tower site by providing an oral statement during the public comment session of the hearing or by submitting a written statement to the Council before, during or after the hearing. They may not ask questions of the petitioner, parties and intervenors, or the Council. The 7 PM public comment session of the hearing is reserved for oral limited appearance statements. Following the public comment session, the Council often asks further questions of the petitioner that directly address concerns expressed by persons making oral limited appearance statements.

No person who is a party or intervenor in the proceeding may also make an oral limited appearance statement during the public comment session of the hearing or submit a written limited appearance statement to the Council before, during or after the hearing.

The Council requests that oral limited appearance statements are brief in order to ensure all concerned persons have an opportunity express their concerns at the hearing. Oral limited appearance statements must be spoken into the microphone to be acknowledged by the Council and to be part of the transcript of the hearing.

#### **4. Council Review of Petitions for Declaratory Rulings**

Cell phone service providers present the Council with a petition for a declaratory ruling that no certificate is required for a proposed cell tower site. The service provider may be seeking to extend the height of an existing cell tower, to replace an existing cell tower or to construct a cell tower on an existing structure such as a silo or a water tank.

The cell phone service provider has the burden of proving to the Council that the tower proposal will not have a substantial adverse environmental impact.

The role of the Council is to review the service provider's evidence of a gap in cell phone service in the selected area and evidence of no substantial adverse environmental impact for the selected site. **The Council may not consider health and environmental effects of radio frequency emissions in the decision-making process – the Federal Communications Commission has exclusive authority to regulate radio frequency emissions and set acceptable levels.**

After examining the gap in cell phone service and the potential environmental impact, the Council makes a decision to approve or deny the proposed facility, or to approve the facility with modifications. The decision is made at a Council meeting held at least 30 days after any public hearings. Council meetings are typically held at the Council's office, and all agendas are publicly noticed.